

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF)
DANIEL GUNTER,)
)
Appellant,)
)
v.)
)
OLYMPIC AIR POLLUTION)
CONTROL AUTHORITY,)
)
Respondent.)

PCHB No. 919

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

THIS MATTER, the appeal of a \$50 civil penalty for allegedly burning prohibited materials in violation of Section 9.01(b) and (g) of respondent's Regulation I having come on regularly for formal hearing before Board member W. A. Gissberg, presiding, on the 24th day of March, 1976 in Lacey, Washington, and appellant Daniel Gunter appearing pro se, and respondent Olympic Air Pollution Control Authority appearing through its attorney, Fred D. Gentry, and the Board having considered the exhibits, records and files herein and having reviewed the proposed Findings of Fact, Conclusions of Law and Order of the presiding officer

1 mailed to all the parties herein by certified mail, return receipt
2 requested and twenty days having elapsed from said service; and

3 The Board having received no exceptions to said proposed Findings,
4 Conclusions and Order and the Board being fully advised in the premises;
5 now therefore,

6 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said proposed
7 Findings of Fact, Conclusions of Law and Order dated the 26th day of
8 March, 1976, and incorporated by reference herein and attached hereto
9 as Exhibit A, are adopted and hereby entered as the Board's Final
10 Findings of Fact, Conclusions of Law and Order herein.

11 DONE at Lacey, Washington, this 28th day of April, 1976.

12 POLLUTION CONTROL HEARINGS BOARD

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14 CHRIS SMITH, Chairman

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16 W. A. GISSBERG, Member

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27 FINAL FINDINGS OF FACT,
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FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

Nature of case: \$50 civil penalty for allegedly burning prohibited
materials in violation of Section 9.01(b) and (g)
of respondent's Regulation I.

Formal hearing: March 24, 1976, Lacey, Washington.

Board member present: W. A. Gissberg, presiding.

Court reporter: Jean Ericksen.

For appellant: Daniel Gunter, pro se.

For respondent: Fred D. Gentry of Bean, Gentry and Rathbone,
attorneys.

EXHIBIT A

FINDINGS OF FACT

1. Pursuant to RCW 43.21B.260, respondent's Regulation I is noticed.

2. On August 18, 1975 in Aberdeen, Washington, appellant had a permit to burn, and did burn, demolition materials. Remnants of rubber or plastic wire insulation and asphalt were found in the unattended smoldering fire by respondent's inspector at about 6 p.m. Rubber, plastic and asphalt (a petroleum product) are prohibited materials under Section 9.01(g). The burning permit also prohibits the burning of these materials.

3. For causing or allowing the burning of prohibited materials, and after considering appellant's past record of one violation, respondent assessed appellant a \$50 civil penalty.

4. Any Conclusion of Law hereinafter recited which should be deemed a Finding of Fact is hereby adopted as such.

CONCLUSIONS OF LAW

1. Appellant caused or allowed an open fire which contained petroleum products, plastic and/or rubber prohibited by Section 9.01(g) and in violation thereof.

2. The \$50 civil penalty assessed pursuant to Section 3.27 was reasonable in amount.

3. The civil penalty should be affirmed.

4. Any Finding of Fact which should be deemed a Conclusion of Law is hereby adopted as such.

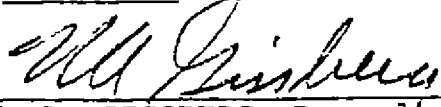
ORDER

The \$50 civil penalty assessed by respondent upon appellant Daniel

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

1 Gunter should be and the same is hereby affirmed.

2 DONE at Lacey, Washington this 26th day of March, 1976.

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4 W. A. GISSBERG, Presiding Officer
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-6 FINDINGS OF FACT,
27 CONCLUSIONS OF LAW AND ORDER